prohibition. *In re Buffalo Traction Co.,* 49 N. Y. S. 1052. Although in this case the act applies to but one railroad. As long as the legislative provision is general, that is, applies to all of the described defective acts, it is constitutional. *State* v. *Brown,* 97 Minn. 402; 5 L. R. A. N. S. 327; *Wrought Iron Bridge Co.* v. *Attica,* 119 N. Y. 204; *Baird* v. *Monroe* (Cal. 1907) 89 Pac. 352; *Fair* v. *Buss,* 117 Ia. 164; *City of Leavenworth* v. *Water Co.,* 69 Kan. 82. There are a few cases that hold that when there is only one city which comes under the class described in the curative act, said act is special. *Cawker* v. *Cent. Bit. Paving Co.* (Wis) 120 N. W. 888; *Rutten* v. *Patterson,* 73 N. J. L. 467.

CONTEMPT—WHEN IS A CAUSE "PENDING?"—The original decision in *State ex rel. Spofford* v. *Gifford, Secretary of State,* 128 Pac. 1060, was handed down by the Idaho Supreme Court, Oct. 8, 1912. A petition for rehearing was filed Oct. 15 by attorneys not of record in the case. This petition was denied by the court Oct. 23. Between Oct. 8 and 23 certain articles were published by defendants charging the court with corrupt motives in rendering the decision. On information by the attorney-general stating the above facts, the defendants were held guilty of contempt and sentenced to fine and imprisonment. *McDougall, Atty. Gen.* v. *Sheridan et al,* (Idaho, 1913.) 128 Pac. 954.

The early common-law rule that the courts have the power of punishing as for a contempt, libelous publications upon their proceedings, whether pending or past, was acted upon in *Commonwealth* v. *Dandridge,* 2 Va. Cas. 408; *State* v. *Morrill,* 16 Ark. 384; *Burdett* v. *Commonwealth,* 103 Va. 838; *State* v. *Hildreth,* 82 Vt. 382. It has been refered to by way of dictum in other cases as a well established rule of the common law. *State* v. *Shepherd,* 177 Mo. 205, 99 Am. St. Rep., 624, 76 S. W. 79; *In re Chadwick,* 109 Mich. 588, 67 N. W. 1071. But the weight of the few decided cases in the United States seems to be that comments upon past decisions cannot amount to contempt. *State ex rel. Atty. Gen.* v. *Circuit Court,* 97 Wis. 1, 72 N. W. 193; 38 L. R. A. 554, 65 Am. St. Rep. 90;*Percival* v. *State,* 45 Neb. 741, 64 N. W. 221, 5 Am. St. Rep. 568; *Post* v. *State,* 14 Ohio C. C. 111; *Cheadle* v. *State,* 110 Ind. 301, 11 N. E. 426, 59 Am. Rep. 199; *In re Dalton,* 46 Kan. 253, 26 Pac. 673. This last case is based upon a dictum in *Re Pryor,* 18 Kan. 72, 26 Am. Rep. 747, where BREWER, J., said: "After a case is disposed of, a court or judge has no power to compel the public or any individual thereof, attorney or otherwise, to consider his rulings correct, his conduct proper, or even his integrity free from stain, or to punish for contempt any mere criticism or animadversion thereon, no matter how severe or unjust." The principal case expressly holds that the publication punished was in regard to a pending case. The question then naturally arises, when is a case pending? A cause is pending where, though a demurrer to the complaint has been sustained, leave to amend has been granted and the time for amendment has not yet expired. *Ex parte Barry,* 85 Cal. 603. The cause is pending where the decree is open to modification, rehearing, or appeal, and the costs have not been taxed, the decree enrolled, nor execution issued. *In re Chadwick, supra.* After rendition of the opinion, and after the time for rehearing has elapsed,

the suit is still pending if time still remains for application for modification of the opinion. *State* v. *Tugwell,* 19 Wash. 238, 52 Pac. 1056, 43 L. R. A. 717. Case was not pending in lower court while pending in upper court on appeal. *In re Dalton, supra; Dunham* v. *State,* 6 Iowa, 245. In *Post* v. *State, supra,* and *Metzger* v. *Gounod,* 30 L. T. N. S. 264, it was held that a trial is not pending after judgment, although the time within which to move for new trial has not expired; but there is a dictum in *Fishback* v. *State,* 131 Ind. 304, to the contrary effect. In the principal case, although judgment had been rendered and the Secretary of State had been instructed to proceed with the printing of the ballots in accordance with that judgment, and although the carrying out of these instructions was not held up until the petition for rehearing had been acted upon, nevertheless the case was held to be still pending because the rules of the court allowed 20 days for the filing of a motion for rehearing. We have here a good illustration of the liberality of some courts in deciding when a case is pending before them.

CONTRACTS—MUTUAL BENEFIT ASSOCIATIONS.—Defendant is a mutual benefit association organized under the laws of Massachusetts, and plaintiff became a member of it in 1883, at which time the death rate of assessment upon members was $1.80 for each death. In 1898 the rate was changed, with the consent of plaintiff, to $3.16 for each death. In 1905 defendant again changed its rates so as to assess plaintiff $6.87 per month. The last change was made without notice to plaintiff and without his consent. Plaintiff in his application for membership agreed to "conform in all respects to the laws, rules and usages of the order now in force or which may hereafter be adopted." Plaintiff brings this action to obtain adjudication of his rights on the contract. *Held* that defendant under the above reservation of power to amend its by-laws is not authorized to amend the laws of the order so as to increase plaintiff's assessment. *Green* v. *Supreme Council of Royal Arcanum,* (N. Y. 1912.) 100 N. E. 411.

The New York Court adheres to the view taken under similar facts in *Wright* v. *Maccabees,* 196 N. Y. 391, 89 N. E. 1078, 31 L. R. A. (N. S.) 423; *Ayres* v. *Order of United Workmen,* 188 N. Y. 280, 80 N. E. 1020; *Dowdall* v. *Sup. Council Cath. Mut. Ben. Ass'n,* 196 N. Y. 405, 89 N. E. 1078, 31 L. R. A. (N. S.) 417. The view of the principal case is also supported in *Smythe* v. *Sup. Lodge,* 198 Fed. 967; *Olson* v. *Ct. of Honor,* 100 Minn. 117, 110 N. W. 374; *Wilcox* v. *Ct. of Honor,* 134 Mo. App. 547, 114 S. W. 155; *Fort* v. *Iowa Legion of Honor,* 146 Iowa 183, 123 N. W. 224; *Council of Honor* v. *Rauch* (Ind.) 95 N. E. 1018; *Hale* v. *Equitable Aid Union,* 168 Pa. 377, 31 Atl. 1066; *Gaunt* v. *Sup. Council,* 107 Tenn. 603, 64 S. W. 1070. Cases holding contrary to the principal case are: *Reynolds* v. *Sup. Council,* 192 Mass. 150, 78 N. E. 129; *Royal Arcanum* v. *McKnight,* 238 Ill. 349, 87 N. E. 229; *Williams* v. *Sup. Council,* 152 Mich. 1, 115 N. W. 1060. See note on the general question in 11 MICH. L. REV. 318.

CONTRACTS—PUBLIC POLICY.—Plaintiff, an attorney with an established practice, and defendant, a young attorney without experience, formed a partnership, stipulating in a partnership agreement as to the division of the